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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/309,844	05/11/1999	WILLIAM PACK	1002-0568	8032

7590 01/31/2002

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INTELLECTUAL PROPERTY DEPT.  
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EXAMINER

RESTIFO, JEFFREY J

ART UNIT

PAPER NUMBER

3619

DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/309,844

Applicant(s)

PACK, WILLIAM

Examiner

Jeffrey J. Restifo

Art Unit

3619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 1999 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 11/15/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/309,844 is acceptable and a CPA has been established. An action on the CPA follows. With respect to which claims are pending, since the CPA request did not specify to enter the unentered after-final amendment filed 5/3/01, claims 1-28 are all pending and claims 1, 10, and 18 have not been canceled.

### ***Specification***

2. The abstract of the disclosure is objected to because the phrase "is disclosed" can be implied and should be removed. Correction is required. See MPEP § 608.01(b).

### ***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "76" has been used to designate both a front portion and the reverse direction. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-5, 7-10, 12, 13, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Couse(2,789,647).

Couse discloses a work vehicle comprising a main frame 2, an engine enclosure 1, a cab assembly 5, a work implement (or truck bed) "W", a ground engaging mechanism (or wheels) 3,4, an engine assembly 6, engine fan 7, a transmission(conventional), and a radiator assembly 19 with cooling core 20, said radiator located outside the engine enclosure having a conduit (or pipe) 26 with one end attached to said radiator and a second end attached to said engine for transporting cooling fluid (or water), as shown in figure 1.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 6, 11, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Couse, as applied to claims 1 and 10 above, and further in view of Hauser(4,362,208).

Couse does not disclose the radiator as having a radiator fan or the radiator as being positioned at an angle less than 90 degrees. Hauser does disclose a work vehicle 3 comprising a radiator 1 having a radiator fan (or blower) 2 located behind a cab assembly 3 and positioned at an angle less than 90 degrees, as shown in figure 6. It would have been obvious to one having ordinary skill in the art at the same time the invention was made to have given the radiator assembly, as taught by Couse, the radiator fan and position the radiator at an angle, in order to direct the exhaust in a desired direction.

8. Claims 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Couse(2,789,647) and in further view of Hauser(4,362,208).

All the limitations recited in these claims have been addressed in the rejections of claims 1-18 above.

With respect to claims 23 and 24, the vertical distances between the front hood and the frame relative to the vertical distance between the upper edge of the radiator and the frame do not appear to be critical to the function of the invention and therefore are viewed as a matter of design choice, see In re Rose, 105 USPQ 237 (CCPA 1955).

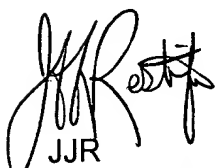
**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ormsby et al., Prouse, Wilson, Williams, Hobbensiefken, Johnston, and Freedy et al. all disclose truck radiator arrangements of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (9:00-5:00), alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-2571 for regular communications and (703) 308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
JJR  
January 23, 2002

Jeffrey J. Restifo  
Examiner  
Art Unit 3619

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

